

**CHAPTER NO. 305**  
(Corrected Copy)  
**SENATE BILL NO. 622**

**By Haynes**

**Substituted for: House Bill No. 1480**

**By Chumney, Sontany, Patton, Gresham**

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5, Part 1, relative to permitting discretion in determining appropriate alimony, and add transitional alimony as a type to be considered.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-5-101(d)(1), is amended by deleting that section in its entirety and by substituting instead the following:

(d) (1) (A) Spouses have traditionally strengthened the family unit through private arrangements whereby one spouse focuses on nurturing the personal side of the marriage, including the care and nurturing of the children, while the other spouse focuses primarily on building the economic strength of the family unit. This arrangement often results in economic detriment to the spouse who subordinated such spouse's own personal career for the benefit of the marriage. It is the public policy of this state to encourage and support marriage, and to encourage family arrangements that provide for the rearing of healthy and productive children who will become healthy and productive citizens of our state.

(B) The General Assembly finds that the contributions to the marriage as homemaker or parent are of equal dignity and importance as economic contributions to the marriage. Further, where one spouse suffers economic detriment for the benefit of the marriage, the General Assembly finds that the economically disadvantaged spouse's standard of living after the divorce should be reasonably comparable to the standard of living enjoyed during the marriage or to the post-divorce standard of living expected to be available to the other spouse, considering the relevant statutory factors and the equities between the parties.

(C) It is the intent of the General Assembly that a spouse who is economically disadvantaged relative to the other spouse, be rehabilitated whenever possible by the granting of an order for payment of rehabilitative, temporary support and maintenance. To be rehabilitated means to achieve, with reasonable effort, an earning capacity that will permit the economically disadvantaged spouse's standard of living after the divorce to be reasonably comparable to the standard of living enjoyed during the marriage, or to the post-divorce standard of living expected to be available to the other spouse, considering the relevant statutory factors and the equities between the parties. Where there is relative economic disadvantage and

rehabilitation is not feasible in consideration of all relevant factors, including those set out in this subsection, the court may grant an order for payment of support and maintenance on a long-term basis or until the death or remarriage of the recipient except as otherwise provided in subdivision (a)(3). An award of periodic alimony may be made either in addition to a rehabilitation award, where a spouse may be partially rehabilitated as defined above, or instead of a rehabilitation award, where rehabilitation is not feasible. When appropriate, the court may also award transitional alimony as provided in item (d)(1)(D).

Rehabilitative support and maintenance is a separate class of spousal support as distinguished from alimony in solido, periodic alimony, and transitional alimony. An award of rehabilitative, temporary support and maintenance shall remain in the court's control for the duration of such award, and may be increased, decreased, terminated, extended, or otherwise modified, upon a showing of a substantial and material change in circumstances. Rehabilitative support and maintenance shall terminate upon the death of the recipient. Such support and maintenance shall also terminate upon the death of the payor unless otherwise specifically stated. The recipient of the support and maintenance shall have the burden of proving that all reasonable efforts at rehabilitation have been made and have been unsuccessful.

(D) Transitional alimony means a sum of money payable by one party to, or on behalf of, the other party for a determinate period of time. Transitional alimony shall terminate upon the death of the recipient and as provided in subsection (a)(3) which provision shall apply to transitional alimony. Such support and maintenance shall also terminate upon the death of the payor unless otherwise specifically stated. The court may at the time of entry of the order to pay transitional alimony, order that it may terminate upon the occurrence of other conditions such as, but not limited to, the remarriage of the party receiving transitional alimony. Transitional alimony shall be nonmodifiable unless the parties otherwise agree in an agreement incorporated into the initial order of divorce, legal separation or order of protection or the court otherwise orders in the initial order or divorce, legal separation or order of protection. Transitional alimony is awarded when the court finds that rehabilitation is not necessary, but the economically disadvantaged spouse needs assistance to adjust to the economic consequences of a divorce, legal separation or other proceeding where spousal support may be awarded, such as a petition for an order of protection.

(E) In determining whether the granting of an order for payment of support and maintenance to a party is appropriate, and in determining the nature, amount, length of term, and manner of payment, the court shall consider all relevant factors, including:

- (1) The relative earning capacity, obligations, needs, and financial resources of each party including

income from pension, profit sharing or retirement plans and all other sources;

(2) The relative education and training of each party, the ability and opportunity of each party to secure such education and training, and the necessity of a party to secure further education and training to improve such party's earning capacity to a reasonable level;

(3) The duration of the marriage;

(4) The age and mental condition of each party;

(5) The physical condition of each party, including, but not limited to, physical disability or incapacity due to a chronic debilitating disease;

(6) The extent to which it would be undesirable for a party to seek employment outside the home because such party will be custodian of a minor child of the marriage;

(7) The separate assets of each party, both real and personal, tangible and intangible;

(8) The provisions made with regard to the marital property as defined in § 36-4-121;

(9) The standard of living of the parties established during the marriage;

(10) The extent to which each party has made such tangible and intangible contributions to the marriage as monetary and homemaker contributions, and tangible and intangible contributions by a party to the education, training or increased earning power of the other party;

(11) The relative fault of the parties in cases where the court, in its discretion, deems it appropriate to do so; and


(12) Such other factors, including the tax consequences to each party, as are necessary to consider the equities between the parties.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 27, 2003



JOHN S. WILDER  
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 8th day of August 2003



PHIL BREDEBEN, GOVERNOR